

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

IN RE: GOLD KING MINE RELEASE IN
SAN JUAN COUNTY, COLORADO ON
AUGUST 5, 2015

No. 1:18-md-02824-WJ

This Document Relates to:
ALL CASES

JOINT NOTICE OF SETTLEMENTS AND MOTION FOR STAYS OF LITIGATION
BETWEEN UNITED STATES AND NEW MEXICO AND UNITED STATES
AND NAVAJO NATION PENDING FURTHER ACTION PURSUANT
TO SETTLEMENTS

On March 2, 2022, the Court issued an Order Granting Joint Motion for Stay of Litigation Related to Claims Between New Mexico and the United States. (Dkt. 1465.) On March 3, 2022, the Court issued a separate Order Granting Unopposed Motion for Stay related to the claims between the Navajo Nation and the United States. (Dkt. 1468.) These Orders granted separate, parallel stays of litigation (1) between the United States and the State of New Mexico and the New Mexico Environment Department (together, “New Mexico”), and (2) between the United States and the Navajo Nation, for the purpose of allowing these parties to complete their settlement negotiations and seek institutional approval of proposed settlement agreements. The Court later extended each stay through June 17, 2022. (Dkt. 1655). The parties to this filing now report that each proposed settlement agreement was approved and signed by all parties to the settlement agreement. For reasons explained below, the parties to each settlement agreement hereby jointly move for a further stay of litigation pending action to occur pursuant to each settlement agreement.

In support of this joint motion, the Moving Parties state as follows:

1. On June 14, 2022, the United States and New Mexico signed an out-of-court settlement agreement that resolves all claims between them in this litigation. Copies are available to the Court upon request and will be disclosed to the public. The settlement provides that the settling parties will initially move jointly to stay all further litigation between them, and that New Mexico subsequently will submit a stipulation of voluntary dismissal within 7 days after receiving specified payments from the United States. Accordingly, the United States and New Mexico respectfully request that the Court enter a stay of all further litigation as between the United States and New Mexico, to continue indefinitely pending the further actions contemplated by their settlement agreement.¹

2. On June 14, 2022, the United States and the Navajo Nation signed an out-of-court settlement agreement that resolves all claims between them in this litigation. Copies are available to the Court upon request and will be disclosed to the public. The settlement provides that the settling parties will initially move jointly to stay all further litigation between them, and that the Navajo Nation subsequently will submit a stipulation of voluntary dismissal within 7 days after receiving specified payments from the United States. Accordingly, the United States and the Navajo Nation respectfully request that the Court enter a stay of all further litigation as between the United States and the Navajo Nation, to continue indefinitely pending the further actions contemplated by their settlement agreement.

¹ The settlement agreement states that New Mexico reserves its right (1) to depose Alexas Gilbert and Michael Rhodes, as permitted by ECF No. 1646, filed May 15, 2022, in In re Gold King Mine Release in San Juan County, Colorado on August 5, 2015, 1:18-md-02824 (D.N.M.); (2) to cross-examine witnesses called by the United States during the evidentiary hearing that the Court has ordered will occur after June 17, 2022 and before trial; and (3) to introduce any testimonial or other evidence related to spoliation of evidence during trial proceedings in the New Mexico Action. The United States reserves its right to object to such testimonial or other evidence.

3. Pursuant to Local Rule 7.1(a), the Moving Parties have conferred with the other parties in this multi-district litigation. Environmental Restoration will not oppose this motion. The McDaniel Plaintiffs have no objection. Harrison Western and the Mining Defendants take no position. The Allen Plaintiffs and Weston Solutions did not confirm their position prior to the time of filing.

Dated: June 16, 2022

TODD KIM
Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice

/s/ Brian H. Lync
BRIAN H. LYNK
ALAN GREENBERG
GUS MAXWELL
United States Department of Justice
Environmental Defense Section
P.O. Box 7611
Washington, D.C. 20044
(202) 514-3468

ADAM BAIN
ALBERT K. LAI
CAROLINE STANTON
DAVID HAMMACK
Civil Division, Torts Branch
U.S. Department of Justice
P.O. Box 340
Washington, D.C. 20044
E-mail: adam.bain@usdoj.gov
Telephone: (202) 616-4209

FRED J. FEDERICI
United States Attorney
ROBERTO D. ORTEGA
Assistant United States Attorney
P.O. Box 607
Albuquerque, New Mexico 87103
(505) 346-7274

Attorneys for Defendant the United States of America

Dated: June 16, 2022

/s/ Andrew W. Homer

William J. Jackson
John D.S. Gilmour
Lana M. Rowenko
KELLEY DRYE & WARREN LLP
515 Post Oak Blvd., Suite 900
Houston, TX 77027

Andrew W. Homer
KELLEY DRYE & WARREN LLP
7825 Fay Avenue, Suite 200
La Jolla, CA 92037

Hector Balderas
Attorney General of New Mexico
P. Cholla Khoury
Assistant Attorney General
STATE OF NEW MEXICO OFFICE OF
ATTORNEY GENERAL
408 Galisteo Street
Villagra Building
Santa Fe, NM 87501

Marcus J. Rael, Jr.
ROBLES, RAEL & ANAYA, P.C.
500 Marquette Ave NW, Suite 700
Albuquerque, NM 87102

Attorneys for Plaintiffs the State of New Mexico and New Mexico Environment Department

Dated: June 16, 2022

/s/ Andrew K. Walsh

John C. Hueston
Moez M. Kaba
Andrew K. Walsh
Joseph W. Crusham
HUESTON HENNIGAN LLP
523 West Sixth Street, Suite 400
Los Angeles, CA 90014

NAVAJO NATION
DEPARTMENT OF JUSTICE
Paul Spruhan
Office of the Attorney General
P.O. Box 2010
Window Rock, AZ 86515

Attorneys for Plaintiff the Navajo Nation

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2022, a true copy of the foregoing document has been served on all counsel of record by the Court's CM/ECF electronic filing system.

/s/ Brian H. Lynk